THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.19452 OF 2007

Dated 13th September, 2007

Between

M/s Gowri Shanker Traders …Petitioner

And

Commercial Tax Officer and another …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.19452 OF 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

The case of the petitioner is that he filed an appeal along with an application for stay before the second respondent. Neither the appeal nor the application for stay has been decided so far.
In the meantime, the first respondent has issued notice, dated 18-08-2007, demanding penalty and also proceeded with the attachment of his bank account and issued a notice to the bank. Therefore, he has filed this writ petition seeking stay of collection of the penalty pending disposal of the appeal by the second respondent.

Heard learned counsel for the parties and with their consent the writ petition is being disposed of at this stage.

We have gone through the record. We feel that the interest of justice would be met if stay of collection of the disputed penalty is granted, pending disposal of the appeal by the second respondent, subject to deposit of 25% of the disputed penalty. Therefore, we grant stay of collection of the disputed penalty and also set aside the attachment of the bank account of the petitioner on condition of the petitioner depositing 25% of the disputed penalty, within a period of four weeks. For four weeks, there shall be an unconditional stay of recovery and the stay of recovery shall continue till disposal of the appeal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. If the amount as stated hereinabove is not deposited, the Department shall be at liberty to take appropriate measures in accordance with law. However, if the petitioner has already paid any amount towards the disputed penalty, while calculating 25% of the disputed penalty, the amount already paid by

the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No order as to costs.

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Bilal Nazki,J

Dated 13th September, 2007

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Ramesh Ranganathan,J

Note: Issue wire at party's cost
(b/o)
vrn